



United Nations Human Rights Council 53rd Session

Agenda Item 3: Interactive Dialogue with the Special Rapporteur on extrajudicial, summary and arbitrary executions

Oral Statement

26 June 2023

The Law Council of Australia and the International Bar Association's Human Rights Institute thank the Special Rapporteur for his report reiterating the duties of States to prevent and investigate prison-related deaths as part of their duty to protect the right to life.¹

More than 30 years after the Royal Commission into Aboriginal Deaths in Custody, Australia has not implemented a comprehensive national response to address the disproportionate incarceration of First Nations people.

While welcoming recent positive steps to improve transparency on deaths in custody,² we are concerned that the incarceration rate of First Nations adults is worsening nationally,³ and recommendations to address over-incarceration, including recommendations of First Nations peoples, have not been fully implemented.⁴

In this context, the Law Council continues to urge Australia to fully implement OPCAT⁵ by ensuring an effective, adequately resourced preventative mechanism is in place across all places of detention in Australia.

The Law Council urges all States to:

- a. Aim to reduce incarceration through alternative justice approaches wherever appropriate, including justice reinvestment, restorative justice, and non-custodial sentencing; and
- b. Ensure independent, thorough, transparent and timely investigations into all prison-related deaths, and implement measures to prevent future similar deaths.

Delivered by Mr Luke Murphy, President of the Law Council of Australia.

¹ Human Rights Committee, *General Comment No. 36*, CCPR/C/GC/36 (3 September 2019) para 25.

² Nicole Hegarty, 'Real-time deaths in custody reporting to address 'national shame of Indigenous incarceration' ABC News (21 June 2023) <<https://www.abc.net.au/news/2023-06-21/federal-gov-introduces-real-time-reporting-of-deaths-in-custody/102503106>>

³ Closing the Gap Information Repository Dashboard (updated 15 June 2023) <<https://www.pc.gov.au/closing-the-gap-data/dashboard/socioeconomic/outcome-area10>>.

⁴ See Australian Law Reform Commission, *Pathways to Justice* (Report, March 2018) <<https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/>>

⁵ *Optional Protocol to the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment*, A/RES/57/199, opened for signature 18 December 2002, 2375 UNTS 237 (entered into force 22 June 2006).